

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII**

IN THE MATTER OF:	)	
	)	<b>ORDER FOR COMPLIANCE</b>
The City of Kemmerer, the City of	)	
Diamondville, and the Kemmerer-Diamondville	)	
Water & Wastewater Joint Powers Board	)	
P.O. Box 1020	)	Docket No. <b>CWA-08-2004-0058</b>
Kemmerer, Wyoming 83101	)	
	)	
Respondents.	)	
_____	)	

**LEGAL AUTHORITY**

This Order for Compliance (Order) is issued pursuant to section 309(a)(3) of the Clean Water Act (Act), 33 U.S.C. § 1319(a)(3), which authorizes the Administrator of the United States Environmental Protection Agency (EPA) to issue an order requiring compliance by a person found to be in violation of sections 301, 302, 306, 307, 308, 318, 402, and/or 405 of the Act, or of any permit condition or limitation implementing those sections. This authority has been properly delegated to the undersigned official.

As authorized by the Act, EPA developed regulations which identify uses for sewage sludge, including disposal; specify factors to be taken into account in determining measures and practices applicable to each such use or disposal; and identify concentrations of pollutants which interfere with each such use or disposal. 33 U.S.C. § 1345(d). The regulations have been in effect since 1993. All terms used in this Order are defined in the Act and/or EPA regulations. See, sections 212, 301, 309, 402, 405 and 502 of the Act, 33 U.S.C. §§ 1292, 1311, 1319, 1342, 1345 and 1362, and 40 C.F.R. parts 122 and 503.

## **FINDINGS OF FACT AND LAW**

1. The City of Kemmerer, the City of Diamondville, and the Kemmerer-Diamondville Water & Wastewater Joint Powers Board (hereinafter, the Respondents) are a “municipality” as defined by Section 502(4) of the Act, 33 U.S.C. § 1362(4), and 40 C.F.R. § 501.2; a municipality is a “person” within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5), and 40 C.F.R. § 503.9(q) for purposes of federal enforcement.
2. Respondents own and/or operate a Publicly Owned Treatment Works as defined in 40 C.F.R. § 501.2, which is a “treatment works” as defined in Section 212(2)(A) of the Act, 33 U.S.C. § 1292(2)(A), and 40 C.F.R. § 503.9(aa).
3. Respondents generates sewage sludge (solid, semi-solid, or liquid residue) during treatment of domestic wastewater at the wastewater treatment plant.
4. Respondents are, therefore, subject to the sewage sludge regulations and any permit issued by EPA implementing the regulations. 40 C.F.R. part 503.
5. EPA issued a general permit, effective on August 16, 2002, for facilities in Wyoming and Indian country that generate, treat, and/or use or dispose of sewage sludge by land application, landfill, and surface disposal. Therefore, the Respondents are regulated by the general permit. Attachment A - General permit number WYG650000; 67 Fed. Reg. Pages 44460 - 44462 (2002).

6. Respondents are required to apply for coverage under the general permit by November 15, 2002, or apply for an individual sewage sludge permit. Respondents have not applied for the general or an individual sewage sludge permit.

7. Respondents' failure to apply for coverage under the general permit constitutes a violation of the EPA regulations and the Act. 40 C.F.R. § 122.21 and 33 U.S.C. § 402(a).

### **ORDER**

\_\_\_\_\_ Respondents are ordered to perform the following actions:

8. Within ten (10) days of receipt of this Order, Respondents shall give written notice to EPA of its intent to comply with the requirements of this Order.

9. Within thirty (30) days of receipt of this Order, Respondents shall submit a completed Notice of Intent ("NOI") to be covered under the general permit; or shall apply for an individual permit for each wastewater treatment facility; or cease generation and disposal of sewage sludge. The NOI shall include all information outlined in part 2.2.1 of the general permit, applicable information outlined in part 2.2.2, and parts 4, 5, 6, and 7 (as applicable). The format of the NOI shall adhere to the guidelines outlined in part 2.2 of the general permit. EPA will review the NOI and either: (a) approve the NOI; (b) approve the NOI with modifications; (c) disapprove the NOI and direct Respondents to resubmit the NOI after incorporating EPA's comments; or (d) direct Respondents to apply for an individual sewage sludge permit; or cease generation and disposal of sewage sludge.

10. Within fifteen (15) days of receipt of EPA's response to the NOI, or such longer time as specified by EPA's response, Respondents will either comply with EPA's response, or object in

writing to EPA's response. If Respondents timely files such an objection, EPA and Respondents shall have an additional thirty (30) days from the receipt by EPA of the notification of objection to reach agreement. If agreement cannot be reached on any such issue within this thirty (30) day period, EPA shall provide a written statement of its decision to Respondents, which decision shall be final and binding upon Respondents.

11. Within fourteen (14) days of receipt of EPA's written notice of coverage under the general permit, Respondents shall submit an itemized list of all costs incurred to comply with the permit application requirements of this Order.

#### **OTHER PROVISIONS**

12. EPA regulations protect confidential business information. 40 C.F.R. part 2, subpart B. If Respondents assert a business confidentiality claim pursuant to these regulations for information required to be submitted under this Order, such information shall only be provided to EPA. If EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in the regulations. Unless a confidentiality claim is asserted at the time the information is submitted, the EPA may make the information available to the public without further notice to Respondents.

13. All written notices and reports required by this Order shall be sent to the following addresses:

Aaron Urdiales (8ENF-W-NP)  
U.S. EPA Region VIII  
Office of Enforcement, Compliance  
and Environmental Justice

Brian Bohlmann  
Wyoming Department of Environmental  
Quality (WDEQ)  
NPDES Compliance

Water Technical Enforcement Program  
999 18<sup>th</sup> Street, Suite 300  
Denver, Colorado 80202-2466

122 West 25<sup>th</sup> Street  
Cheyenne, WY 82002

14. Any failure to comply with the requirements of this Order shall constitute a violation of the Order and may subject Respondents to penalties as provided under the Act, 33 U.S.C. § 1319.
15. This Order does not constitute a waiver or modification of the terms and conditions of any National Pollutant Discharge Elimination System permit held by Respondents, or of any other legal responsibilities or liability. Any such permit remains in full force and effect.
16. This Order does not constitute a waiver of or election by EPA to forego any civil or criminal action to seek penalties, fines or other relief under the Act. The Act authorizes the assessment of civil penalties of up to \$32,500 per day for each violation of the Act, and fines and imprisonment for willful or negligent violations. 33 U.S.C. § 1319.

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION VIII  
Complainant.

Date: 7/30/04

**SIGNED**

\_\_\_\_\_  
Carol Rushin  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

In the Matter of:        Kemmerer-Diamondville Wastewater Treatment Plant  
Docket No.:

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Findings of Violation and Order for Compliance was sent to the following persons, in the manner specified, on the date below:

Original and One (1) Copy  
Hand-carried and Filed:

Tina Artemis  
Regional Hearing Clerk  
U.S. EPA, Region VIII  
999 18th Street, Suite 300  
Denver, Colorado 80202-2466

True Copy by Certified Mail  
"Return Receipt Requested"  
with the attached document:

Barry Mootz, Operations Manager  
Kemmerer-Diamondville WWTP  
P.O. Box 1020  
Kemmerer, Wyoming 83101

Certificate of Service

Date: \_\_\_\_\_

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE  
ON AUGUST 3, 2004.**